

## INSPECTIONS AND APPEALS DEPARTMENT[481]

### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 231B.2(1) and 231D.2(2), the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 67, “General Provisions for Elder Group Homes, Assisted Living Programs and Adult Day Services,” Iowa Administrative Code.

The amendments implement changes resulting from legislation in 2014 Iowa Acts, House File 2365, which establishes an informal conference process for elder group homes and adult day services programs. The legislation gives elder group homes and adult day services programs the opportunity to contest the Department’s final findings in an informal conference with an independent reviewer. The informal conference provisions in 2014 Iowa Acts, House File 2365, mirror legislation passed for assisted living programs in 2013 Iowa Acts, Senate File 394. The implementation of these amendments will allow for a consistent process between these three types of providers for informally contesting the Department’s final findings.

The Department does not believe that the proposed amendments impose any financial hardship on any regulated entity, body, or individual.

Any interested person may make written suggestions or comments on the proposed amendments on or before September 23, 2014. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to [david.werning@dia.iowa.gov](mailto:david.werning@dia.iowa.gov).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 231B.2(1) and 231D.2(2) and 2014 Iowa Acts, House File 2365.

The following amendments are proposed.

ITEM 1. Rescind and reserve rule **481—67.12(17A,231B,231D)**.

ITEM 2. Amend rule 481—67.13(17A,231C,85GA,SF394), catchwords, as follows:

**481—67.13(17A,231B,231C,231D,85GA,SF394 HF2365) ~~Assisted living programs—exit~~ Exit interview, final report, plan of correction.**

ITEM 3. Amend subrule 67.13(1) as follows:

**67.13(1) Exit interview.** The department shall provide an exit interview in person or by telephone at the conclusion of a monitoring, during which the department shall inform the ~~assisted living~~ program’s representative of all issues and areas of concern related to insufficient practices. A second exit interview shall be provided if the department identifies additional issues or areas of concern. The program shall have 2 working days from the date of the exit interview to submit additional or rebuttal information to the department.

ITEM 4. Amend rule 481—67.14(17A,231C,85GA,SF394), introductory paragraph, as follows:

**481—67.14(17A,231B,231C,231D,85GA,SF394 HF2365) ~~Assisted living programs—response~~ Response to final report.** Within 20 working days after the issuance of the final report and assessment of civil penalty, if any, the ~~assisted living~~ program shall respond in the following manner.

ITEM 5. Amend subrule 67.14(1) as follows:

**67.14(1) *If not contesting final report.*** If the program does not desire to seek an informal conference or contest the final report and civil penalty, if assessed, the program shall remit to the department of inspections and appeals the amount of the civil penalty, if assessed. If ~~an assisted living~~ a program has been assessed a civil penalty, the civil penalty shall be reduced by 35 percent if the requirements of subrule 67.17(5) are met.

ITEM 6. Amend subrule 67.14(2), introductory paragraph, as follows:

**67.14(2) *Informal conference.*** If the ~~assisted living~~ program desires to contest the final report and civil penalty, if assessed, and request an informal conference, the ~~assisted living~~ program shall notify the department of inspections and appeals in writing that it desires to contest the final report and civil penalty and request in writing an informal conference with an independent reviewer.

ITEM 7. Amend subparagraph **67.14(2)“b”(2)** as follows:

(2) Documentation supporting the ~~assisted living~~ program’s position. The ~~assisted living~~ program must highlight or use some other means to identify written information pertinent to the disputed regulatory insufficiency(ies). Supporting documentation that is not submitted with the request for an informal conference will not be considered, except as otherwise permitted by the independent reviewer upon good cause shown. “Good cause” means substantial or adequate grounds for failing to submit documentation in a timely manner. In determining whether the program has shown good cause, the independent reviewer shall consider what circumstances kept the program from submitting the supporting documentation within the required time frame.

ITEM 8. Amend subparagraph **67.14(2)“c”(2)** as follows:

(2) The conference will be scheduled for one hour. The ~~assisted living~~ program will informally present information and explanation concerning the contested regulatory insufficiency(ies). The department will have time to respond to the ~~assisted living~~ program’s presentation. Due to the confidential nature of the conference, attendance may be limited.

ITEM 9. Amend subparagraph **67.14(2)“c”(4)** as follows:

(4) When extenuating circumstances preclude a face-to-face conference, a telephone conference will be held or the ~~assisted living~~ program may be given one opportunity to reschedule the face-to-face conference.

ITEM 10. Amend subparagraph **67.14(2)“d”(3)** as follows:

(3) The ~~assisted living~~ program must submit to the department a new plan of correction for the amended or corrected report within 10 calendar days from the date of the letter conveying the results of the conference.

ITEM 11. Amend paragraph **67.14(3)“a”** as follows:

*a.* If the ~~assisted living~~ program does not desire to further contest an affirmed or modified final report, the ~~assisted living~~ program shall, within 5 working days after receipt of the written decision of the independent reviewer, remit to the department of inspections and appeals the civil penalty, if assessed.

ITEM 12. Amend paragraph **67.14(3)“b”** as follows:

*b.* If the ~~assisted living~~ program does desire to further contest an affirmed or modified final report, the ~~assisted living~~ program shall, within 5 working days after receipt of the written decision of the independent reviewer, notify the department of inspections and appeals in writing that it desires to formally contest the final report.